

THE DAILY BEE. COUNCIL BLUFFS. Thursday Morning, October 4. SUBSCRIPTION RATES: By Carrier... Office: 7 Pearl Street, Near Broadway. MINOR MENTION.

See Joseph Reiter's fall goods. Additional local on seventh page. Chop Railroad Tickets at Bushnell's. Colonel Dailey and N. M. Pusey speak to-night at Oaxaca.

The corner stone of the new Masonic temple is to be laid to-day. C. H. Hart and wife, of Washington, D. C., were at the Ogdens yesterday.

Now that the council is to keep the meat markets closed right on Sunday, how about the saloons? E. F. Kellogg, of Merrill, Wis., and L. M. Marshall, wife and daughter, of Appleton, were Badger State folks at the Ogdens yesterday.

James Mitchell claims that while walking along Broadway he had his pocket picked of \$30, but don't seem able yet to fasten the crime on the right party. Charles P. Price, representing the "State's Attorney," was in the city yesterday, arranging for the presentation of that play in this city next Tuesday.

By an arrangement made with the railway companies, those who attend the meeting of the Prisoners' Aid association at Des Moines on the 31st inst., will be returned at one-third the regular fare. After the horse race between the Thurston and Bluff City teams at Omaha, next Saturday, there will be a coupling match between two of the Thurston team and Walters and Nicholson of the Bluffs, for \$20 a side.

The Little Windsor seems not to have been a success, financially. The proprietor, D. S. Johnson, is reported as having skipped out for the east, while the house is shut up, the furniture mortgaged, and the hungry creditors mostly outside for some settlement of their claims, with apparently poor prospects.

The man Kinchey, who was arrested on the charge of drawing a knife on a colored man named McDonald, in a row growing out of some relation with a woman named Jennie Myers, or Jennie Epps, was yesterday discharged by Justice Schurz, no prosecuting witness appearing against him.

There is still great grumbling about the accommodations furnished by the Union Pacific railway in return for the \$40,000 avenue given it by the city. After getting to the transfer passengers have to wait fifteen minutes before crossing the river, whichever way they are going, and then the trips are only every hour instead of every half hour as agreed.

During the storm Monday evening there were five horses killed by lightning in the pasture of Henry Madison, just west of Weston. Three of them belonged to Gilbert Mahood, one to Mr. Madison and one to Mr. Young. The five horses were found lying dead, in a circle on the ground, one stroke having evidently killed all simultaneously.

Justice Abbott yesterday issued a warrant for the arrest of Frank Odell for larceny. It appears that Odell was at work for a man named Dolan, and while the latter was away from home he took off a load of hay instead of waiting for his employer to come home to demand his pay of him. For thus paying himself off in hay he was arrested on this charge.

See the Dudes at Bliss'. Opening Friday evening at Harkness Bros. Harmony Band Dance at St. Joseph's Academy, Friday evening, October 5.

PERSONALS. Mrs. J. J. Bliss has returned from the east, where she has been buying a large supply of French millinery and other goods for her many customers.

Frank Shinn, the temperance apostle of Carson, was in the city yesterday. Major Wood, of the C. B. & Q., visited the Bluffs on yesterday.

A. W. Askwith, who was formerly a member of the far here, and who has since located at Huron, Dakota, is in the city again.

Rev. A. Rogers, formerly superintendent of the deaf and dumb asylum here, and now pastor of the Congregational church at Dunlap, Iowa, was in the city yesterday, his wife and daughter accompanying him. They stopped at the Pacific.

J. H. Spence, of Columbus, Ohio, was at the Pacific yesterday. A. Waugh and family, of Lincoln, Neb., were among those at the Pacific yesterday.

Do not forget the opening at Harkness Bros. Friday evening. HYMENEAAL HAPPINESS. One of Council Bluffs' Young Men Captured at Glenwood.

CROSS FIRE. The Examination Closed and the Prisoner's Bail Fixed at \$15,000. The Attorneys Spend the Afternoon in Arguments. Little More About the Tragedy.

There was considerable delay yesterday morning in getting at the further examination in the case of Dr. Cross, charged with the murder of Dr. McKune. The hour set for resuming was 9:30, but all were kept waiting, the state desiring to introduce some witness who was not forthcoming, and the delay being on that account. After waiting about three-quarters of an hour Mr. Baldwin insisted that there should be no further delay, but the judge thought it was too important a matter to make too great haste in, and they had better wait on the prosecution a little longer. After some more delay, Mr. Lennox, who testified the day before, was recalled, and questioned a little more closely as to how he knew that it was Dr. McKune who spoke first to Dr. Cross, as testified to by him the day before. Mr. Baldwin objected to his being asked about this, as the witness had already been examined fully, and dismissed by the state, and could not be recalled. The state wanted to know of the witness how he knew that it was Dr. McKune who spoke, and the objection being overruled, the witness replied that it was the man who was behind, and was wearing a coat that it was Dr. McKune. He knew neither of the men by name until afterwards. A number of other questions were asked, but ruled out on the ground that the matter asked about had already been testified to by the witness the day before.

Mr. A. W. Cowles, of the firm of Harle, McKune & Co., was then called to testify as to Dr. McKune's natural gait in walking. He had known him since 1871, and knew that his step was short and quick, and that he was a rapid walker. He testified that Dr. McKune was quite regular in his habit of going to supper about 6 o'clock. That night he was a little later than usual, and it is probable that it was 6:15 o'clock when he left the store. He left the store from five to seven minutes before the killing. Dr. McKune weighed from 210 to 215 pounds, and stood about 5 feet 10 inches. He was a large stocky man.

The state then rested, and the defense introduced Frank Scanlan, a boy about 13 years of age, whose home is at 118 Grace street, and who was in the employ of Dr. Cross. On the evening of the killing Mrs. Cross had sent him after baking powder at Mr. Badollet's store, and on returning he met Dr. Cross at the corner by the Citizens' bank. Dr. Cross gave him a half-dollar, and told him to get two quarters for it at the postoffice. The boy got the change and coming back got as far as the corner of the Citizens' bank, and looking down Pearl street, he saw Dr. McKune strike Dr. Cross. Dr. Cross was going to his office. The boy ran toward them and as he got to the Pearl street crossing, Dr. Cross was trying to get up. When he got up to them, Dr. McKune was choking Dr. Cross and the latter was trying to get out his revolver. Dr. Cross was against the fence, one leg bent, and partly down, when he got out the revolver. They struggled out to the edge of the sidewalk into the gutter and as they got back to the edge of the sidewalk, Dr. Cross shot Dr. McKune four times, and was then told to go get a policeman and he ran up to the police station. When he came back he found Dr. Cross lying in his office, his wounds being attended to.

On cross-examination he said he had been working for Dr. Cross about five months, but had lived at home except for the past week, when he had been living at Dr. Cross' house. When he started after the baking powder Dr. Cross was at home, standing by the window with his wife. When he first saw Dr. McKune and Dr. Cross on First avenue, Dr. Cross was right by the lamp post at Dr. Woodbury's office. The lamp post was lighted. Dr. McKune was there too, about five feet from the post. Dr. McKune struck Dr. Cross first. They were fighting under the lamp-post, for it was from the post that Dr. Cross fell; when Dr. McKune hit him Dr. Cross fell by the building. One hand of Dr. McKune, the right one, was doubled up and looked aluminous in places like silver. He saw this as Dr. McKune struck Dr. Cross. The boy was about ten feet west of the Citizens' bank, on First avenue, when he saw this, and he thought by the shining look that Dr. McKune had on his hands, that Dr. Cross fell against the building, about midway. He was almost down when he fell against the building and then went clear down on the sidewalk on his face. This was caused by the blow given by Dr. McKune in the back of the head. When Dr. Cross was trying to get up Dr. McKune got him by the throat and commenced pounding him, striking him in the face. By this time the witness had reached the Pearl street crossing, and saw him strike Dr. Cross four times with his right hand in the face. Dr. McKune had something shiny in his hand when he struck those four blows. Dr. Cross was trying to get up. As the latter was getting up, Dr. McKune grabbed him by the throat with both hands, choking him up against the building. He did not hear either of the men say anything. Dr. Cross then got out his revolver with his right hand from his hip pocket, and tried to get in position to shoot. Dr. McKune then let go of Dr. Cross' throat and grabbed the revolver. After the revolver went off, Dr. Cross' hand and went out into the gutter, then back to the edge of the sidewalk, and then Dr. McKune fell. During all this struggle Dr. McKune had what seemed to be brass knuckles on his hand. Dr. Cross still held the revolver in his hand. The revolver was broken when Dr. McKune fell. Dr. Cross did not break it afterwards to throw the cartridges out.

On re-examination the witness said he was not positive that Dr. McKune had anything in his hand, but he saw something shiny, and based his judgment on that. Mr. Baldwin then announced that the defence would waive any further examination. Col. Daily then said that the prosecution would submit the case without argument, but on the court suggesting that there was a question as to whether, on the charges preferred, the prisoner could be admitted to bail or not, the prosecution concluded that it wanted to be heard on that question. Adjournment was then taken until 2 o'clock in the afternoon. On the opening of court in the afternoon, one of the attorneys for the state, N. M. Pusey, addressed the court as to whether Dr. Cross should be admitted to bail. He cited numerous authorities showing that the premeditation and deliberation need not be but for the briefest period of time in order to make it murder in which the premeditation was made before the act was committed did not affect the matter. The premeditation might be for an instant or a year. Mr. Pusey cited also authorities on the question of provocation to the effect that provocation at the time of the killing could not be used as an excuse for the killing, when the premeditation and malice on the part of the prisoner preceded the provocation. He then proceeded to review the testimony, and endeavored to show that Dr. Cross had malice in his heart for a long time before this affair. The conversation had with Mr. Nichols two years or more before, in which Dr. Cross said that if Dr. McKune ever touched him he would shoot him, showed that he had malice and premeditation in his heart. Then his telling that he would get Dr. McKune to hit him first, and would both him until he did, and would then shoot him, and get clear on self defense, showed that he had not only malice but had a plan, and that he had tried to carry out this plan. Then he had said in the presence of Mrs. Brooks and her little girl that he would kill Dr. McKune if he ever got a chance, and that he would get even with him. That was about a year ago. Then about a week before the tragedy Dr. Cross told Mrs. Metcalfe that if the court had done its duty he would have sent Dr. McKune across the state, and that he would get even with him yet. With the light from this sentence thrown upon the scene of that night's tragedy, it seemed that it was murder and nothing else. Mr. Pusey then reviewed the testimony of the conflict itself. He called attention to the fact that Dr. Cross was first on the ground, that he was first seen by Mr. Sargent at the corner, resting and about going eastward. The next witness saw him standing on the opposite corner. Then at the time of the encounter it appears that Dr. McKune was on the retreat. Miss Berger, when she first saw them, noticed that Dr. McKune was with his back toward her, and the parties were moving to her. Then in the struggle Dr. McKune reached into his sutter, with Dr. Cross and him clinching and there Dr. Cross had the advantage, being on the higher ground. The testimony showed that Dr. Cross was not knocked down at all. When knocked against the fence, and Dr. McKune stood there without following him up, Dr. Cross should have retreated, instead of pulling his revolver. Dr. McKune was standing five feet from him, without any weapon, and without offering any further violence; when Dr. Cross, instead of retreating, pulled his revolver. Dr. McKune then did what any man would do. He rushed forward to get the revolver and save his own life. Dr. Cross carried out the threat which he had made long before, that the first chance he got, and the first provocation that Dr. McKune gave, he would kill him. Mr. Pusey did not care to discuss the testimony of the boy, Scanlan, as it was contradicted by the testimony of every one of the other eye-witnesses to the encounter. John N. Baldwin, in behalf of the defense, then entered upon an able argument and result of the prosecution. The attempt to make it out a murder, on the slender foundation of a third made, was ridiculous. The threat, to be in conformity with the act itself, which was far from being the case. Were it not for the fact that the carrying of the weapon had not been explained on its examination, a clear case of self defense could not be imagined. There was nothing in the evidence to show that Dr. Cross had "hothored" or "teased" Dr. McKune, or provoked him to an assault, so as to get an excuse to shoot him. The State's own witnesses testified that Cross was going home, unsuspecting and peaceable, when Dr. McKune came up with him, spoke to him, and turned about and hit him. The counsel for the state had said that perhaps Dr. McKune said "good evening." How improbable that such was the salutation that was followed up by a blow knocking Dr. Cross five feet! A man going home peaceably, suddenly saluted, turns about, receives a heavy blow, turns to defend himself, is struck another giant blow, knocked against the building, and nearly crushed to death, and not knowing how many other blows, or what other injuries he will receive, pulls his revolver. A clearer case of self-defense could not be conceived. It was not necessary that there should be real danger to his life. If Dr. Cross had real grounds to believe that he was about to receive great bodily injuries, as he certainly did have, he was justified in shooting him. If Dr. Cross intended to shoot Dr. McKune if he had premeditation, why did not Dr. Cross pull his revolver when first saluted by Dr. McKune? Why did Dr. Cross fight and try to defend himself instead of shooting at once? The facts all point to the fact that there was no premeditation and that it was self defense. There was no evidence but that Dr. Cross when he pulled his revolver, did so with the simple intention of using it, if Dr. McKune followed up the first attack. Dr. McKune did follow it up, and then Dr. Cross used the weapon, clearly in self-defense. All the witnesses testified that Dr. McKune had knocked Dr. Cross

Continued on Seventh Page.

SPECIAL NOTICES. NOTICE—Special advertisements, such as Lost, Found, To Loan, For Sale, To Rent, Wants, Boarding, etc., will be inserted in this column at the low rate of 75 CENTS PER LINE for the first insertion and FIVE CENTS PER LINE for each subsequent insertion. Leave advertisements for our office, No. 7 Pearl Street, near Broadway.

WANTS. WANTED—Every body in Council Bluffs to take notice. Delivered by carrier at only twenty cents a week.

WANTED—A boy, with pony, to deliver the papers.

FOR SALE AND RENT. FOR SALE—A half section, A No. 1 farming land, in southeast 1/4 of section 4, No. 10 township, 10th range, 10th meridian, 10th range, 10th meridian, 10th range, 10th meridian. Address: The office, Council Bluffs.

FOR SALE—House and lot, southeast corner of 10th and Broadway. JAMES W. BAKER.

FOR SALE—PACIFIC HOUSE FOR SALE—100 FEET—This is a fine building, capacity 100 beds per day. All modern appliances; well located. For sale or lease. Apply to J. B. & J. DAY. Council Bluffs, Ia., September 16, 1883.

FOR SALE—JACOB SIMS. E. P. CADWELL.

SIMS & CADWELL, Attorneys-at-Law, COUNCIL BLUFFS, IOWA. Office, Main Street, Rooms 1 and 2, opposite St. Mark's Church. Will practice in state and Federal courts.

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